

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
Civil Action No.: 1:23-CV-811

DAVID RYAN WOOD,

Plaintiff,

vs.

WELLPATH, LLC; THE COUNTY OF
ROWAN; J. TRAVIS ALLEN, in his
official capacity; KEVIN AUTEN, in his
individual capacity; GREGORY
HANNOLD, in his individual and
official capacity; OFFICER JERRY
EWART, in his individual capacity;
JOHN DOE
CORPORATION/PENNSYLVANIA
NATIONAL MUTUAL INSURANCE
COMPANY; KEVIN JOHN
CORRIGAN, in his individual capacity;
ASHLEY ROWLAND, in her individual
capacity; JACQUELIN MICHELE
WILLIAMS, in her individual capacity;
and UNKNOWN WELLPATH
PROVIDER(S),

Defendants.

**DEFENDANTS KEVIN JOHN
CORRIGAN ASHLEY ROWLAND
AND WELLPATH, LLC'S MOTION
TO DISMISS**

Pursuant to Federal Rule of Civil Procedure 12(b)(6), Defendants Kevin John Corrigan (“Dr. Corrigan”) and Ashley Rowland move to dismiss Plaintiff’s First Claim for Relief; Defendants Dr. Corrigan, Ms. Rowland and Wellpath, LLC (“Wellpath”) move to dismiss Plaintiff’s Third Claim for Relief; and, Wellpath moves to dismiss Plaintiff’s Second and Fourth Claims for Relief [D.E. 2] for failure to state a claim upon which relief may be granted. Plaintiff’s allegations arise from the provision of medical services to

Plaintiff while he was incarcerated in the Rowan County Detention Center located in Salisbury, North Carolina (“RCDC”) in July 2021 through September 2021.

Plaintiff’s Complaint brought the following claims against these moving Defendants.

First Claim for Relief: “42 U.S.C. § 1983-Failure to Provide Adequate Medical Care” in violation of the Eighth and/or Fourteenth Amendments against all individual defendants.

Second Claim for Relief: “42 U.S.C. § 1983-Failure to Provide Adequate Medical Care” in violation of the Eighth and/or Fourteenth Amendments against...Wellpath.

Third Claim for Relief: “42 U.S.C. § 1983-Failure to Intervene” in violation of the Eighth and/or Fourteenth Amendments against all defendants.

Fourth Claim for Relief: “Failure to Train and Supervise” in violation of the Eighth and/or Fourteenth Amendments against...Wellpath.

Fifth Claim for Relief: “Negligence” but more specifically medical negligence as against these defendants.

Punitive Damages: against all Defendants.¹

Plaintiff fails to allege sufficient facts that Dr. Corrigan and Ms. Rowland were deliberately indifferent to Mr. Wood’s substantial risk of serious harm. As a result, Plaintiff’s 42 U.S.C. § 1983 “Failure to Provide Adequate Medical Care” should be dismissed against them.

¹ Defendants Corrigan and Rowland do not move to dismiss Plaintiff’s Fifth or Punitive Claims for Relief at this time.

Additionally, Plaintiff fails to allege that either Dr. Corrigan, Ms. Rowland, or Wellpath are “law enforcement officers” capable of being sued for Plaintiff’s 42 U.S.C. § 1983 “Failure to Intervene” (also known as “bystander liability”) claim.

Lastly, Plaintiff’s *Monell* claims against Wellpath are based on mere conclusory statements and/or hearsay references with no basis in fact.

This Motion is based upon the Court file, the records in this action and accompanying Brief in Support thereof.

This the 15th day of December, 2023.

TEAGUE CAMPBELL DENNIS & GORHAM, LLP

BY: /s/Megan E. Cook

Jennifer B. Milak

N.C. State Bar No. 24418

Megan E. Cook

N.C. State Bar No. 47874

P.O. Box 19207

Raleigh, NC 27619-9207

Telephone: (919) 873-0166

Facsimile: (919) 873-1814

***Attorneys for Defendants Wellpath,
Williams, Rowland and Corrigan***

jmilak@teaguecampbell.com

mcook@teaguecampbell.com

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to all counsel of record.

Elliot S. Abrams
Cheshire Parker Schneider, PLLC
P.O. box 1029
Raleigh, NC 27602
elliott.abrams@cheshirepark.com
Attorney for Plaintiff

Kathryn M. Alia (*Pro Hac Vice*)
Elizabeth C. Lockwood (*Pro Hac Vice*)
Ali & Lockwood, LLP
300 New Jersey Avenue, NW, Suite 900
Washington, DC 20001
katie.ali@alilockwood.com
liz.lockwood@alilockwood.com
Attorneys for Plaintiff

James R. Morgan, Jr.
Womble Bond Dickinson (US) LLP
One West Fourth Street
Winston-Salem, NC 27101
jim.morgan@wbd-us.com
***Attorney for Defendants Rowan County,
J. Travis Allen, Kevin Auten, Gregory Hannold,
And Jerry Ewart***

This the 15th day of December, 2023.

TEAGUE CAMPBELL DENNIS & GORHAM, LLP

BY: /s/Megan E. Cook

Jennifer B. Milak

Megan E. Cook

***Attorneys for Defendants Wellpath,
Williams, Rowland and Corrigan***